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RIGHTS OF THE CHILD

Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Mrs. Ofelia Calcetas-Santos

Addendum

Visit by the Special Rapporteur to the Czech Republic

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Introduction

1. From 20 to 25 May 1996, the Special Rapporteur on the sale of children, child prostitution and child pornography, Mrs. Ofelia Calcetas-Santos, paid a visit to the Czech Republic at the invitation of the Government. The Special Rapporteur visited Prague, Plzen, Brno, Usti nad Labem and Teplice. During the visit, she consulted both governmental and non-governmental organizations and concerned individuals on issues pertaining to her mandate. She also had the opportunity to visit some field projects assisting children in difficult situations.

2. The Special Rapporteur warmly thanks the Government of the Czech Republic and the people she had the privilege of meeting during the visit for their open and fruitful dialogue with her. She hopes that the recommendations put forward at the end of the present report will help to mobilize effective action to address questions of concern to the mandate and to protect and promote the rights of the child.

I. GENERAL CONSIDERATIONS

A. Brief overview

3. The Czech Republic was established on 1 January 1993 after the division of Czechoslovakia into two separate States. It is located in Central Europe and covers an area of 78,864 sq km. The territory of the State comprises two main regions (Bohemia and Moravia), which are subdivided into seven smaller regions (West Bohemia, North Bohemia, Central Bohemia, South Bohemia, East Bohemia, North Moravia, South Moravia), 89 districts and 6,196 municipalities. The territory of Prague is an independent administrative unit. In 1993, the population was estimated at 10.5 million, of whom 81.2 per cent are Czech, 13.2 per cent Moravian, 3.1 per cent Slovak and the rest Polish, German, Silesian, Romany and Hungarian.

4. According to December 1994 data, 1,948,024 inhabitants are under the age of 14 years.

5. After the Second World War, the country lived for 40 years under a communist regime. Most of the people who met with the Special Rapporteur, from both the governmental and non-governmental sides, welcomed the termination of the communist era through the "Velvet Revolution". The Czech Republic is therefore considered as a country in transition from the political and socio-economic perspectives. In various areas, this transition is having an impact on children which is not always positive.

6. The Czech Republic has one of the most developed industrialized economies of the emerging democracies in Central and Eastern Europe. It also has a well educated population and well developed infrastructure. However, the Czech Republic shares some of the problems of its neighbours in Central and Eastern Europe, such as a market economy substituted for a rigidly planned economy, increased unemployment and substantial social adjustment. Moreover, economic and political transformations have affected, more or less

drastically, health, education and social welfare systems, leaving children more vulnerable and thereby giving rise to an increase in the number of street children.

B. Some issues of concern

Gambling addiction

7. Both governmental and non-governmental sources have expressed serious concern with respect to the rising incidence of gambling addiction in children brought about by the opening of casinos and the importation and proliferation of gambling machines. The need for money for gambling is therefore one of the new causes for children, especially boys, being involved in prostitution.

Criminality of children

8. Child criminality, which has gone up in the past five years (12 per cent in 1989; 20 per cent in 1995), is another issue of concern. A rise in brutality and criminality in gangs has been noted.

Drug addiction

9. The new-found freedom of the young includes freedom to abuse drugs, which is also becoming an issue of concern and may lead to involvement in prostitution and/or pornography.

Opening of borders

10. The weak border with Slovakia enables more and more people coming from Bulgaria and Romania to enter the Czech Republic, including children, especially boys, who later have great difficulty surviving and finding legitimate sources of income.

Free market economy

11. After decades under a communist regime, parents drawn to Western lifestyles are becoming more and more involved in market activities in order to raise their standard of living. There are therefore less able to supervise and attend to their children.

Radical changes in the educational system

12. Some people regret the collapse of the previous educational system, which used to organize activities for children after school. The availability of more free time for children without any school or parental supervision makes them susceptible to questionable influences.

Sexual freedom

13. Sexual freedom is considered one of the new attractions which the market economy can offer, as against the puritanism of the communist era. Thus, girls and boys become more easily involved in prostitution and/or pornography, most of the time without really knowing what it is all about.

C. Laws, policies and practices

14. The Czech Republic has ratified nearly all the international human rights instruments, including the Convention on the Rights of the Child.

The Constitution

15. The Constitution of the Czech Republic was adopted on 16 December 1992 and promulgated as Law No. 1/1993 Coll. Article 3 of the Constitution stipulates that "Part of the constitutional order of the Czech Republic is the Charter of Fundamental Rights and Freedoms". Article 10 stipulates that "Ratified and promulgated international accords on human rights and fundamental freedoms, to which the Czech Republic has committed itself, are immediately binding and are superior to law".

16. As a signatory to the Convention on the Rights of the Child, the Czech Republic is aware of its obligation to conduct awareness campaigns and to ensure compliance with the Convention. By virtue of the above-mentioned article 10 of the Constitution, the Convention on the Rights of the Child is being implemented within the Czech Republic's internal legal order.

17. As stated in article 3 of the Constitution, the Charter of Fundamental Rights and Freedoms is part of the constitutional law. In its article 32, the Charter states that "Parenthood and the family are under protection of the law. Special protection of children and adolescents is guaranteed".

The Family Act

18. The pillar of the rights of children is the Family Act (94/1963 Coll.). Under this law a child is defined as a minor person, i.e. a person from birth until majority. The legal status of a child is then defined depending on his/her age. The terms youth, adolescent or juvenile are also used in the legal terminology.

19. A government resolution of January 1995 requested the appropriate authorities to prepare and submit draft amendments to the Family Act and on social and legal principles relating to the protection of children and youth. This revision was still being drafted at the time of the Special Rapporteur's visit.

20. Besides the Family Act, other laws deal directly or indirectly with children's rights. In that regard, section 11 of the Penal Code states that a person becomes fully liable for his or her acts at 18 years. Persons who, at the time of committing a crime, have not attained 15, are not liable for their acts.

21. Although prostitution is not criminalized in the Czech Republic, each region and municipality can decide, through "notices", on its own policy with regard to prostitution, by determining where it can take place. If a prostitute operates beyond the allowed area of activity, he/she can be fined.

22. A most important and problematic aspect of Czech law is that child prostitution always refers to children under 15. At the age of 15, a child receives an identity card (ID) and becomes qualified for many things, including sexual consent. Consequently, a prostitute between 15 and 18 years of age is not considered as a child prostitute under the law.. Furthermore, criminal culpability also attaches to a child from the age of 15.

II. SALE OF CHILDREN

A. Sale for commercial adoption

23. Police officers, social workers and non-governmental organizations with whom the Special Rapporteur met in Prague, Teplice and Usti clearly stated that they had never come across any case of the sale of babies. The police in Usti reported that in 30 years not a single case of the sale of children had been brought to their attention.

1. Local adoptions

(a) Prevention and protection

24. The laws provide for the care of abandoned children. Every pregnant woman is entitled to health care and to anonymous delivery if she so wishes. A mother giving up a child for adoption will never be paid for doing so. She receives 5,100 koruny whenever she gives birth, whether she decides to keep the baby or give it up for adoption. All pregnant women are registered by the health authorities, and if a woman wants to give up her child for adoption immediate referral is made to the social welfare office. The mother has until the actual delivery to change her mind.

25. Another measure to prevent the sale of children is the automatic registration of the child, first, at the time of birth and later at the central registration office which issues the birth certificate containing the name of the mother, etc. (This certificate serves as the child's ID until replaced by another when the child reaches the age of 15.)

(b) Some problems

26. One problem is with respect to abandoned or orphaned foreign children who are given only permanent residency instead of citizenship and are therefore discriminated against as far as adoption is concerned. Also, people generally do not want to adopt Gypsy children, for cultural reasons.

27. In North Bohemia, there are problems about babies who are abandoned by prostitutes who do not bother to put the babies up for adoption or send them to orphanages.

2. Intercountry adoptions

28. Czech authorities at all levels stated that the sale of children for intercountry adoption does not occur because of very strict controls.

B. Trafficking in organs

29. Nothing concrete was reported on this particular issue to the Special Rapporteur during her visit, beyond allegations in various cases of disappearance of children.

C. Intercountry and internal trafficking in children

30. Some NGOs reported cases of young girls and women who wanted to work in Germany. Very often they accept dubious job offers and most of the time they unfortunately end up in sexual exploitation. NGOs note that most of the girls who go to Germany in this way do not have any idea of what might happen to them. Going to Germany is quite easy and girls from 15 to 18 years of age frequently travel without passports because often there is no customs checking of those who take the bus. Moreover, girls who have reached the age of 15 can travel without being accompanied by an adult.

31. It is also quite common for a foreigner accompanied by a child to leave the Czech Republic declaring himself to be the father of the child.

32. Cross-border trafficking occurs in regions such as North Bohemia in the north-east of the Czech Republic, bordering Germany. Police officers in Usti (North Bohemia) stated that there is considerable trafficking of prostitutes across the border involving children aged between 15 and 18, but that children under 15 are not involved.

33. Although all prostitutes have IDs and are regularly monitored, falsification of papers sometimes occurs with respect to children who are brought out of the country. An example of this is a 14-year-old girl who had somebody else's papers and was brought out of the country by an Australian. The girl was able to return and it was only then that the person who took her out of the country was prosecuted. Another case reported to the Special Rapporteur involved a young girl who ran away from a children's centre and left the country. She was caught when she was coming back to the Czech Republic with a false passport.

1. Preventive measures

34. Cooperative mechanisms are already in place between the Czech and German authorities, in collaboration with NGOs. In order to prevent exploitation, a consulting service has been set up for girls wanting to go to Germany. The service gives information on working conditions in Germany and advice on places, families and centres to be contacted in case assistance is needed.

35. The Special Rapporteur was shown a video film on boys involved in prostitution and/or pornography. The documentary, entitled "Body without soul", deals with the trafficking of foreign boys to the Czech Republic, mainly to Prague, as well as the trafficking of Czech boys to Western European countries, primarily Germany and the Netherlands. Boys are smuggled across the border under the seats of trucks.

2. Prosecution

36. The sale, trafficking and abduction of children is punished under section 216 of the Penal Code. According to the Czech authorities, in 1994, there were 54 cases of abduction and of child desertion.

37. The Ministry of Justice stated that there was not a single case of trafficking in 1995. Although it was indicated that, in 1994, one person was sentenced for trafficking in children, there is no cause to believe that sale or trafficking is among hidden or latent crimes.

38. The Czech Republic is a member of the European Council, and as such, it has extradition arrangements with all of Europe. It is now in the process of negotiating an extradition treaty with the United States of America.

III. CHILD PROSTITUTION

39. It is worth recalling that after the "Velvet Revolution" there was no fixed policy on adult prostitution. However, the Czech authorities are now starting to establish some restrictions such as on areas of operation. One of the problems is that each municipality has its own policy on prostitution.

40. Typical modes of operation are in the streets, nightclubs, brothels and bars. At most risk are those on the streets, whereas the high-class prostitutes are in the least danger.

41. The Special Rapporteur had the opportunity during her visit to Teplice to travel along the E55 road. Prostitutes were plying their trade along both sides of this road, which goes from Teplice to the German border. It had been reported to the Special Rapporteur that the situation there used to be much worse. Prostitutes are less visible now because many brothels have sprung up along the road.

A. Identification of child prostitution

1. Areas of child prostitution

42. In preparing her report, the Special Rapporteur was again faced with the common major problem of lack of reliable data and statistics regarding prostitution in general and child prostitution in particular. Moreover, as stated above, Czech law with regard to the definition of children creates a problem. With respect to sexual consent and sexual relations, a child is a person under 15. Therefore, persons from 15 to 18 years of age are considered as minors under the Czech law, but are no longer children. This law is in discrepancy with the provisions of the Convention on the Rights of the Child and removes legal protection for minors aged between 15 and 18.

43. According to the Czech authorities, in recent years, the number of children involved in prostitution and pornography, both girls and boys, has steeply increased. This situation brings health and social problems. It is accompanied by truancy, petty crime, discontinued education, broken contacts with the family and premature pregnancies. Prostitution has become an acceptable way of earning a living. Child prostitution afflicts children

coming from families with sub-standard social levels, mostly belonging to ethnic minorities. In 1994, 214 persons were prosecuted for procuration. Section 204 of the Penal Code defines procuration, section 242 defines sexual abuse and prohibits the sexual abuse of children.

44. It is interesting to note that the Ministry of Labour and Social Affairs alleged that the issue of child prostitution is only marginal. Cases of child prostitution usually involve children who are at least 14 years old, as they are already physically developed. The Ministry denied having statistics on the issue, but referred the Special Rapporteur to the Ministry of Justice which would have statistics on cases filed. However, social workers in Teplice gave the Special Rapporteur some comprehensive statistics, which they claimed had been supplied to them by the Ministry of Labour and Social Affairs.

(a) North Bohemia

45. According to both governmental and non-governmental sources, child prostitution is not increasing at the same rate in the various regions of the Czech Republic. The most problematic regions are Prague and North Bohemia (near the German border). North Bohemia is composed of 10 boroughs with a total of 1 million inhabitants. The most problematic areas in North Bohemia are Teplice, Liberace and Usti nad Labem. According to one governmental source, although child prostitution is not yet considered a serious concern in Prague, the situation in the border areas was different, especially among the Gypsy populations. The Special Rapporteur was informed that Czech Gypsies were almost eradicated by Hitler, so that the Gypsies now have different nationalities and are not really integrated in the community. Gypsy families are mostly welfare dependent and are usually not interested in education. Non-governmental organizations confirmed to the Special Rapporteur that child prostitution is not yet a major concern. The Society of Passion Without Risk, an NGO headed by a sociologist which protects and educates prostitutes, informed her that in the past year it had only come across three cases of girl prostitutes who were under 18. In the E55 area, NGOs noted that pimps are afraid of using children because of police controls; however, they came across some cases of young girls with false papers.

46. The site of operation of prostitutes in Usti is along the main E55 road to Germany. There has been a case there involving three girls under 15 (2, 12 and 14). The mother of two of the girls took them to the road to force them to be prostitutes to raise funds for her to buy heroin. She took the drug in the presence of the minors. She was detained and prosecuted and the children are in children centres. Social workers in the region stated that after 1989 there was a boom in prostitution in the town of Dubi, which has now spread to Teplice and other places. There were 465 prostitutes reported in 1995, 165 of them between the ages of 15 and 18. Juvenile prostitution is a problem because it is hidden in brothels or hotels or erotic saloons, particularly in Dubi. Pimps come mostly from the Gypsy community or from former Yugoslavia. The youngest child prostitute they have come across is an 11-year-old girl.

47. The main problem with Gypsy communities is the lack of cooperation. There is hardly any case of forced prostitution, that is, children who have

been forced or coerced into it by strangers. In cases involving children or minors, the parents are charged and the children are placed in institutions and monitored. Usually the girls are already suffering from drug addiction. Another growing concern is truancy, because merchants in the area, most of them Vietnamese, are now hiring children to tend to their stalls. The State is quite vigilant with respect to children under the age of 15 and the social welfare services take charge of any child of such an age immediately (usually within 24 hours). But street children between the ages of 15 and 18 are beginning to be a problem. They are often runaways who lose their welfare benefits, which are only available to the child if he is in school or unable to get a job.

48. The following are pertinent statistics relating to 1995:

36 children under 15 considered for adoption;

23 children under 15 entrusted to relatives;

74 children referred to institutions (54 of them under 15);

14 children referred to foster care;

238 cases of truancy;

23 reported cases of abuse and tormenting;

4 cases of sexual abuse of children under 15.

(b) West Bohemia

49. The Special Rapporteur was informed that in the West Bohemian region, child prostitution is not yet a big problem. It affects mostly children from Gypsy families and girls who have run away from children's homes. Gypsy children are often forced by their parents to earn money. The police find it very difficult to investigate because gangs are often involved. One Gypsy girl was murdered; the offender, a German national, was captured and found to be a psychopath. The parents of the girl had forced her to go out with him. It was stated that most of the clients are Germans.

50. Child prostitution is underground. State police coordinate with municipal police, but it is usually very difficult for the police to obtain information on the involvement in prostitution of children under 15 years of age unless a report is made. Even then, it is usually very difficult to prove it.

51. An NGO reported to the Special Rapporteur the case of a 14-year-old girl who was voluntarily brought to a brothel in Germany and who was later brought back to the Czech Republic at the instance of her family. She is under psychiatric care and said that she went into prostitution as a protest against the breakdown of her family.

(c) Prague

52. Most of the girls involved in prostitution are between the ages of 15 and 18, although girls younger than 15 began to become involved in 1993. Most of these girls are runaways from detention centres. In most cases the motive is to obtain money or a place to stay (usually the pimp's). Prague and the other big cities all over the country are now very active in conducting drives so that girls under 15 are fast disappearing from the scene.

53. Since 1990, there has been a huge growth in erotic shops, massage salons and clubs where prostitution also thrives. It is illegal for children under 15 to work in such places. The employment of children between the ages of 15 and 18 is not formally prohibited but may be covered by a provision of the Criminal Code which criminalizes activities jeopardizing the moral development of youth. Girls under 15 who are caught working in such places are brought back to their families or to child centres and the persons who cause the involvement of these children in prostitution are prosecuted. Girls who do not behave or who are no longer attractive are sold to E55 brothel owners. (Prostitutes in Prague are more expensive than those on E55, primarily because Prague facilities are better.) Police officers have noticed that there is a definite trend for younger girls, causing their prices to be higher.

2. Boy prostitution

54. Many NGOs working in the street reported that there were hundreds of boy prostitutes in Prague. Most of them are not homosexual. The majority are boys between 14 and 20 who have run away from home and come from their villages to earn easy money in Prague. They have not really been pushed into prostitution by poverty. In a documentary video shown to the Special Rapporteur, entitled "Angels but no angels", boy prostitution was demonstrated as being well established in Prague. The documentary, written and directed by Wictor Grodeski and produced by Miro Vostiar, presents the situation of 10 boy prostitutes in Prague, aged between 14 and 19. The majority of them were aged 16. Some of them were homosexuals but the majority were heterosexual. Most of them come from dysfunctional families; they are either runaway boys or have been rejected by their parents. They come from Moravia and Slovakia; few of them are from Prague. Many of them work at the Prague railway station, where the clients are mostly local, but there are also German, British, Bulgarian and American clients. It is reported that foreigners prefer to go to nightclubs and bars, where prices for boy prostitutes are higher. Boys who were interviewed declared that most of them never accept less than 1,000 koruny when the client is a foreigner. Foreign clients include doctors, businessmen and politicians. With regard to Czech clients, they can rarely pay the same amounts as foreigners. Consequently they look for boys who work at the railway station where the prices are lower than in clubs. The documentary identified four clubs in Prague which were famous for boy prostitution. The younger the boy is, the higher the price. Boys of 14 years can ask for 2,000 to 3,000 koruny. There is literature giving information on where these boys may be found in Prague.

55. All the boys interviewed expressed their fear of disease and loneliness. Some were afraid of HIV/AIDS. They stated that Czech clients always accepted

to use condoms, whereas foreign clients sometimes refused and were willing to pay more. A few of the boys said they were not afraid of HIV/AIDS. However, many of them had at least one friend who had died from HIV/AIDS, one of whom was only 14. The growing concern about gambling addiction seems to be quite justified because the documentary also established that most of the boys need money not so much for survival as for gambling.

56. The increase in boy prostitution, especially in Prague, was also reported by one established hotline. The Czech authorities informed the Special Rapporteur that under communist rule, homosexuality was prohibited and homosexual activities in public places or with persons under 18 prosecuted. However, the law in question had been abolished in 1990, which had given rise to male prostitution. In North Bohemia, however, police stated that boy prostitution was exceptional and sometimes forced by parents (Gypsies). There was only one reported case involving a boy under 15. Homosexual prostitution was very rare and there was only one known case of a transvestite being involved in prostitution.

57. Regarding the issue of drug addiction, street workers noted that the link between it and prostitution is not well established and not obvious. It seems that drug addicts prefer to steal money or to produce their own drugs, rather than to enter prostitution. Moreover, pimps do not accept prostitutes who are drug addicts, because it would cost them more money.

3. Child sex tourism

58. The growing trend towards child sex tourism has been referred to in the sections dealing with child prostitution and the issue of boy prostitution.

59. Sex tourism is described by both governmental and non-governmental sources as a growing phenomenon. Children are among the main victims. Clients, mostly coming from Germany, are attracted by "fresh" girls. Moreover, the low exchange rate of the Czech currency encourages foreigners to come for cheap prostitution. It is also reported that more and more paedophiles are coming to the Czech Republic.

B. Child sexual exploitation: prevention and protection

1. Public and private initiatives

60. One NGO started a hotline on 1 September 1994, modelled on the British "Childline". It is exclusively for children and aimed primarily at giving the children a chance to talk. The telephone calls are free (through arrangements with the telephone company) and an average of 20,000 calls are received a month. The greatest number of callers are in the 14 to 16 age group. The problems discussed usually concern love, school and the family, but 20 per cent of the callers raise more serious problems of physical and sexual abuse, drugs or bullying. These callers are passed on to a crisis centre staffed by two psychiatrists, two psychologists and social workers. The centre sometimes also takes the testimony of children alleged to have been abused, using video equipment. Such testimony may be admissible in court at the judge's discretion. This is because the police and the professionals involved do not always treat the children in a sensitive manner.

61. The lack of adequate response mechanisms provided by the State for abused children is an issue of concern. Child abuse is usually treated as a family matter and the need for a warrant is also imposed. In the absence of adequate response mechanisms, therefore, the aim is not to criminalize abuse, but to strengthen the family. Instead of resorting to prosecution all the time, especially in cases where the evidence is not strong, they explore extrajudicial measures, such as endorsing the problem to other relatives. This is to avoid double victimization.

62. The personnel of the hotline called the attention of the Special Rapporteur to some weaknesses in Czech policies for children, including the following:

There is no halfway house for children;

There is no focal point for children;

There is a dire need for training of teachers to detect child abuse;

The difference in treatment under t aw of children between the ages of 15 and 18;

Institutionalization is usually the first alternative of the State;

Some institutions resist adoption as an alternative for children because they receive money for the care of the child;

It is believed that there may be cases of abuse in care institutions, but children are too scared to talk.

63. In Plzen, the Special Rapporteur had the opportunity to visit the Salesianske Centre, which is primarily concerned with the education and upbringing of young people who are marginalized, concentrating on those without a family, those in criminal activities, the handicapped and those from Gypsy communities. The approach is basically preventive and aims at providing a positive environment for the young, to counteract negative influences. The centre has focused on four pillars of prevention: home, school, playground and trust in God. It has also established some practical strategies: keeping the house open from 2 to 10 p.m., dividing the children into age groups for activities, the establishment of 11 clubs, such as sewing, model-building and cooking clubs, to prepare the children for life. They have periodic lectures, debates and discussions on the prevalent problems of young people (drugs, family, love). They also have weekend and holiday stays which focus on various topics, such as problems of adolescence. Sometimes they have camps where the children stay for one or two weeks to make friends. The centre attends to an average of 200 to 300 children a week and keeps in touch with about 600 children.

2. Education system

64. In her previous general reports the Special Rapporteur has identified the education system as one of the catalysts for prevention of all types of

abuse of children. In that regard, during her visit to the Czech Republic, she had the opportunity to meet with representatives of the Ministry of Education and with professors and teachers, and to visit a special primary school in Prague.

65. The Czech authorities stated that, with regard to the exploitation and abuse of children, they were giving priority to preventive initiatives in education rather than to repression. Teachers at the primary and secondary levels receive training in this respect. The need for such training is felt especially in the border areas. There is also a need to prepare special programmes for older people.

66. Among the various initiatives using education and the school system as a preventive tool against the abuse and exploitation of children, in Prague the Czech Society for the Protection of the Child, founded in 1992 as an NGO within the Third Medical Faculty of the Czech University, has established an extended programme of awareness and preventive education. The centre is staffed by teachers, physicians, lawyers, criminologists and social workers. They organize lectures in coordination with the Faculty of Pedagogy on such topics as bullying, sexual abuse and drug addiction and respond to calls for assistance from schools; they prepare "peer" programmes, or child to child approaches. They also cooperate with other NGOs, like Foundation for Life, for example, in organizing joint seminars.

67. The Czech Society for the Protection of the Child believes that pre-graduation education should provide information to children on all the hazards which can damage them. However, the organization is conscious that this is not enough. There is a need for trained professionals, such as teachers, psychologists and psychiatrists, to create conditions in which children can be helped directly.

68. The Czech Society coordinates with the Parliament and is now preparing a report on what a child's life is actually like in the Czech Republic. In June 1996, it sponsored a conference on the problems of mentally handicapped children who are subject to sexual abuse. This conference was attended by representatives of NGOs, paediatricians, sexologists and psychologists, etc. In September 1996, there was a big conference on child abuse sponsored by the Medical Society, mainly for physicians and paediatricians.

69. In West Bohemia, cases of abuse or exploitation are concentrated in the border areas, and concern children who do not have good family backgrounds. The major identified problem is drug addiction. Therefore, some preventive programmes have been established.

70. In Plzen (West Bohemia), the Open Society Foundation initiated a preschool project called "To start together" for the social integration of children from problem families and the involvement of their families. This project focuses on education programmes in primary schools and on programmes for the prevention of criminality. A community centre on one of the housing estates provides social assistance for integration. The Foundation arranges police lectures for adult education classes, especially for those in danger of

criminality in terms of drug addiction, etc. Moreover, the city of Plzen is in the process of establishing a drop-in centre for drug addicts. A positive consequence of this preventive policy was that of the 1,600 crimes reported in 1995, only 265 involved children under 18, and just three of these cases related to children under 15.

71. Throughout the Czech Republic, most schools have school clubs (day-care centres) on the school grounds, where children can engage in extracurricular activities, such as art, music, etc. In addition, centres for older children, established by the State, are operated in cooperation with NGOs. The major purpose of those activities is to keep children busy in the protected environment of the school, far from the street and its temptations.

72. It should be noted that there are no trained specialists in schools yet for the detection of child abuse, but the Government is in the process of introducing a programme, including the detection of drug addiction (usually training of teachers). In practice, when a teacher has a serious suspicion that a child is the victim of abuse, the teacher must inform the police. If the suspicion is only based on allegations, it is left to the discretion of the teacher whether to inform the Ministry of Social Affairs. It is also to be noted that sex education is not compulsory in school because of the objections of some church and religious groups.

73. In Prague, the Special Rapporteur visited a special primary school in Josefska which has some programmes on the prevention of drug addiction. Children are taken for visits to drop-in centres for drug users, shown programmes on the dangers of drug abuse and meet drug addicts.

3. The media

74. Aware of the criticisms formulated about the extremely negative impact of violence and sex on television and in magazines, the Special Rapporteur had the opportunity to meet with representatives of the Council for Radio and Television Broadcasting, an office set up in 1993 which reports to the House of Commons. The Special Rapporteur had identified the media among the three catalysts she considers as priority tools against child exploitation.

75. The representatives of the Council she met with said that after decades of a repressive communist regime, the issue of any kind of censorship or control was a very sensitive topic. However, because of the importance of the issue for children, the Council was managing to impose a few restrictions. First, from 6 a.m. to 10 p.m., there is a ban on programmes adversely affecting the morality of children, which is strictly enforced. Second, programmes which are in contradiction with the Constitution and the laws are censored. Third, programmes must not promote war or portray inhuman or cruel acts.

76. However, the Special Rapporteur expressed her concern with regard to the increasing exposure of younger children to pornography in magazines. She believes that a way should be found of protecting children better without imposing strict censorship.

C. Prosecution of child sexual exploitation

77. During her meeting with experts from the Ministry of Justice, the Special Rapporteur was informed of the existence of the Institute for Social Prevention, which undertakes research on criminology and social prevention, including on issues relating to young children.

78. The representatives of the Institute provided statistics to the Special Rapporteur. In 1995, 61 persons were sentenced for child abuse (0.1 per cent) involving scaring and threatening children. Out of the 61, 19 were sentenced to prison and the rest were given suspended sentences or placed on probation. Of the 374 persons sentenced in 1995 for sexual abuse of minors under 15 years of age, 116 were imprisoned. The others had suspended sentences or were on probation. Of the 374, only 8 were women and 55 were foreigners.

79. The police have identified various difficulties in prosecuting cases of child prostitution, including the following:

(i) In most cases there are no documents or hard evidence, and children, especially girls, are reluctant to testify as they are more scared of pimps than of the police;

(ii) Prostitution rings are very well organized and use very sophisticated equipment; they are perhaps several years ahead of the police in terms of the technology that they have access to;

(iii) Police officers also have to face the ambivalence of the law with respect to children between 15 and 18 years of age. With children of this age, the police cannot do anything unless there is proof of forced prostitution, which is criminalized irrespective of age, or when drugs are involved;

(iv) Although there are general laws applicable to the whole country, each region has the possibility of adopting its own regulatory rules through "notices" with regard to prostitution, which sometimes confuses the situation.

80. The following statistics for North Bohemia for 1995 were provided to the Special Rapporteur by police officers: 147 cases of sexual abuse of minors under 15, only 4 of which had not been solved; 10 cases of sexual abuse of minors aged between 15 and 18, which had all been solved; 8 cases of prostitution of minors under 15, which had all been solved; and 12 cases of prostitution of minors aged between 15 and 18, of which 11 had been solved. There had been 9 cases of rape of children under 15, 7 of which had been solved, and 20 cases of rape of children aged between 15 and 18, of which 16 had been solved.

81. The police officers noted that reports of sexual abuse had decreased considerably in 1996, compared to the statistics for 1995, but child prostitution was increasing (there were already 5 cases reported as of May 1996 for children under 15, and 6 cases for those from 15 to 18). The increase in reports of child prostitution is attributed by the police to the intense drive conducted by a special team of investigators, resulting in more

cases being revealed. Hence, this may not necessarily reflect an increase in actual abuse. The fact that the police are very strict concerning the prostitution of children under 15 acts as a strong deterrent to pimps against involving them.

82. Most of the people the Special Rapporteur met considered that, in order better to control prostitution and better to prosecute child prostitution, adult prostitution should be legalized. Prostitutes could be taxed by the State and medical check-ups could be made compulsory, which would help to reduce transmissible disease. As the situation currently stands, it is very difficult to discover which prostitutes have infected clients, because the prostitutes refuse to have medical check-ups. They do not have medical insurance, so doctors do not want to examine them.

IV. CHILD PORNOGRAPHY

A growing concern

83. Both governmental and non-governmental sources admit that child prostitution exists but that a greater problem is child pornography. In that regard, there is a need for stricter laws. It should be noted that child pornography in the Czech Republic mainly refers to pornography involving boys. Children find prostitution and pornography very lucrative. As sexual intercourse with a girl over 15 is not illegal, the major and usual problem is to prove that an abuser knows that the girl is under 15, considering that, at that age, many girls are already fully developed.

84. It is reported that pornography in the country is usually backed by foreign companies. Many parents bring their children to take part in such activities for money. They somehow believe that the proliferation of pornography may be due to the overly-restrictive censorship during the communist regime.

85. The Special Rapporteur was informed that pornographic materials (video and magazines) are made in local studios, usually funded by customers from Western countries, using local boys. Film directors and producers pick up boys who look younger than they are - the younger the better. This is in response to demand. Various pornographic magazines have been seized by the police but, in the absence of a clear definition of pornography, there have been only two cases of prosecution. The Prague police gave the Special Rapporteur pornographic magazines which they had seized that involved boys aged less than 18.

86. Although there are no reports of pornographic materials being manufactured in West Bohemia, there are reports of imported materials in Karlovy Vary which involve 15- to 18-year-old children.

87. In North Bohemia, the Special Rapporteur was informed of cases of child pornography involving a German citizen. He rented rooms in hotels or brothels to take video films of girls and had also shown the girls the films of their own sexual activities. Most of the girls involved were under 15. The materials were brought to Germany and distributed there. He was caught in the Czech Republic and convicted, and his accomplices, who were already in

Germany, are now being sought by the German police. Although there is no extradition treaty with Germany for German nationals who escape to Germany after committing crimes in the Czech Republic, the cooperation between the Czech Republic and Germany at the border is good.

Prosecution

88. Child pornography is prohibited under section 205 of the Penal Code defining offences against morals. Pornography is punished by imprisonment and fine or seizure of property. Customs law punishes the importation of pornographic materials. The punishment occurs under commercial law. Advertising morally unacceptable behaviour is punishable. The publishing of child pornography is also punishable under criminal and commercial law.

V. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

89. The Special Rapporteur is pleased to note that the general picture in the Czech Republic is more encouraging than she had expected. She would like to express her appreciation of the openness and cooperation of the Government in recognizing that problems afflicting children exist and commends the Government's willingness to take measures to eliminate and combat the phenomena. She extends her particular thanks to the Ministries of Foreign Affairs, of Justice and of the Interior (especially the law-enforcement officers) for their invaluable assistance.

90. The activities of non-governmental organizations in addressing the issue of children in difficult situations is also very much appreciated by the Special Rapporteur. The fact that they seem to be in cooperation and not in confrontation with the Government is also perceived by the Special Rapporteur as a step in the right direction.

91. There is, however, one area of concern that the Special Rapporteur particularly wishes to address, and that is the matter of the minority groups, particularly the Gypsies. The Special Rapporteur is of the impression that children belonging to these groups are further marginalized because of the attitude in some sectors that the problems of children in prostitution and pornography are not very serious and "only" afflict Gypsy children. The Special Rapporteur regrets very much her inability to have direct dialogue with any representative of any ethnic minority, owing to lack of time.

B. Recommendations

92. The Special Rapporteur would like to make the following general recommendations:

(a) A focal point for children should be established to coordinate the concerns of all children, including ethnic minorities, with the activities of the various agencies in the Czech Republic.

(b) National laws should be revised with a view to eradicating the possibility that children belonging to minority groups may be deprived of citizenship and may therefore be outside the protective mantle of the law.

(c) In line with recommendations made at the Stockholm Congress against Commercial Exploitation of Children, national laws should be amended to adopt a non-punitive approach to children involved in prostitution, even those between the ages of 15 and 18.

(d) In the city of Prague, the situation of boys in prostitution deserves special attention. Known places of usual operation, like the railway and bus stations, the clubs, erotic shops and massage salons, should be constantly patrolled. Law-enforcement officials should always be visible in order to act as a deterrent towards boys and their potential clients. "Sting" operations should be conducted and the resulting arrests should be given wide publicity in order to send a strong message to prospective clients.

(e) To combat the growing phenomenon of gambling addiction among children, and in view of the fact that it is established as one of the causes of the involvement of children, especially boys, in prostitution, a strict ban on children under 18 years of age entering casinos or places where gambling machines are available should be enforced, with penalties for those who allow them to be in such places. Video and amusement arcades should likewise be periodically checked to make sure that betting does not occur there among children.

(f) There should be enhanced cooperation between the government agencies and the non-governmental organizations dealing with children, and better coordination and allocation of responsibilities should be established so that the totality of problems afflicting children are addressed.

(g) The use of children, especially boys, for pornography is likewise of serious dimension. Better control measures should be instituted to prevent this development and the proliferation of pornographic materials involving children should be stopped. Access of children to any pornographic materials should likewise be restricted.

(h) With regard to trafficking, border regions, such as North Bohemia close to the German border and the border between Slovakia and the Czech Republic, should install greater control and monitoring mechanisms.

(i) The apparent high percentage of runaway children from care institutions would indicate a need to impose closer supervision of government agencies to make sure that revictimization of children does not take place in these facilities.

(j) Programmes and initiatives should be subject to review to ensure that they do not have unforeseen adverse effects. An example of such an effect is that of the two documentary films shown to the Special Rapporteur, dealing with boy prostitution and boy pornography. The Special Rapporteur regrets that, while the purpose of these documentaries was to denounce such practices, the boys who were featured in the film attained instant stardom and higher prices in the sex market. Although the names of the boys were not given, their faces were not disguised and the places where they operated were identified in detail.

Annex

LIST OF PERSONS WITH WHOM THE SPECIAL RAPPORTEUR MET

In Prague

Minister for Foreign Affairs, Mr. Josef Zieleniec

Experts of the Ministry of Foreign Affairs:

- Mr. Thomas Vasek
- Ms. Ivana Schellongova
- Ms. Marie Bode
- Ms. Zdenka Machnyikova
- Ms. Veronika Pastrnakova

Experts of the Ministry of Culture:

- Ms. Jana Kucerova
- Mr. Michael Benes
- Ms. Anna Chorvátová
- Mr. Jan Fucík
- Mr. Richard Fiala
- Mr. Vaclav Appl
- Ms. Eva Straková
- Ms. Michaela Ruzickova

Deputy Minister of Health, Mr. Ales Dvoulety

Experts of the Ministry of Education:

- Mr. Martin Odehnal
- Ms. Ivona Dvorakova
- Mr. Jan Kofon
- Ms. Alena Kroupova

Deputy Minister of Justice, Mr. Cyril Svoboda

Experts of the Ministry of Justice:

- Ms. Jana Wurstová
- Mr. Vladimir Král
- Mr. Otakar Osmancík
- Mr. Vladimir Senkyr
- Ms. Jitka Machova
- Ms. Jana Stará
- Ms. Marina Mandlerová

Deputy Minister of the Interior, Ms. Fendrych

Prague Department of Police:

Mr. Rudolf Zeman
Mr. Miloslav Zán
Mr. Pert Vosolsobe
Mr. Bohous Kocourek

Child Crisis Centre:

Mr. Jiri Dunovsky
Ms. Jana Prochazkova
Ms. Rita Kotulakova
Ms. Jana Spilkova

Czech Committee for UNICEF: Mr. Pavel Biskup

Crisis Intervention Centre for Youth: Mr. Martin Hajny

Czech Helsinki Committee: Ms. Libuse Silhanova

White Circle for Safety/Foundation Tolerance: Mr. Pavel Rícan

Foundation "Our Children": Ms. Zuzana Baudysova

Nadace a Klub Rosa:

Ms. Marie Vavronová
Ms. Jirina Kozderova

Josefska School:

Ms. Alena Heringova
Ms. Magdalena Peterova
Ms. Daniela Pakova

Council for Radio and Television Broadcasting:

Ms. Landova
Mr. Josef Musil

White Circle of Safety:

Ms. Petra Vitousova
Mr. Rudolf Pihchan

K-Centrum Sananim: Ms. Olga Himmelsbergerová

Electra: Ms. Jirina Dolanska

Profem/La Strada: Ms. Barbel Butterwech

Bliss without Risk: Ms. Pavla Vitaskova

Linka Bezpecí (Nadace Nase Dite):

Ms. Jarmila Knight
Mr. Peter Pôthe

Journalist:

Ms. Kveta Samajova

In Plzen

Local authorities:

Mr. Frantisek Nekola
Ms. Marie Kulawiaková

Centre of Christian Youth (Salesiánské stredisko mládeze):

Mr. Karel Zenisek
Mgr. Josef Mendel

Police Department:

Mr. Vaclav Budek
Mr. Jaroslav Pata
Mr. Lubonur Jicha
Mr. Frantisek Rubás

In Brno

Faculty of Law of Masaryk University: Mr. Dalibor Jilek

Supreme Court: Mr. Zdenek Sovak

In Usti nad Labem

Police Department:

Mr. Vaclav Limberk
Mr. Vaclav Bejfir
Mr. Jiri Kubena
Mr. Vladimir Brabec

In Teplice

Social workers:

Ms. Marxova Vavoslava
Ms. Bohemila Hendrycmová
Ms. Martina Vasku